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August 5, 2015

**VIA ECF**

Honorable Joan M. Azrack  
United States District Court Judge  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York, 11722

Re: ***Berlin v. Maxi-Aids, Inc. et al***  
**14-cv-3028 (JMA)(AYS)**

Dear Judge Azrack:

We represent defendants Solomon & Herrera, PLLC, Michael D. Solomon, Susan Rubin and Daniel Herrera (collectively “the S&H law firm”) in the above-referenced matter. I write as a follow up with respect to our request that we be permitted to file the motion to dismiss that was served in December 2014, which motion remains unopposed. We also note that plaintiffs’ violation of court-ordered deadlines constitutes a failure to prosecute by plaintiffs, which would likewise subject to the action to dismissal under FRCP 41(b).

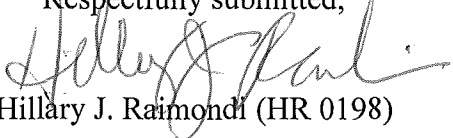
As set forth in prior correspondence to the Court, on December 10, 2014, the S&H law firm served its motion to dismiss the amended complaint herein, and filed a letter reflecting same in accordance with the rules of the Honorable Sandra J. Feuerstein, who was the judge assigned to this matter at that time. At the last conference, which was held on February 2, 2015, Magistrate Judge Locke granted plaintiffs a sixty day extension of time, until April 6, 2015, to respond to the motions to dismiss filed by the various defendants, including the S&H law firm. Defendants were given until May 6, 2015 to respond to plaintiff’s submission. The April 6, 2015 deadline was also a deadline for plaintiffs to move to file a second amended complaint. Plaintiffs failed to comply with Magistrate Locke’s order.

On April 2, 2015, plaintiff Aaron Berlin sent a letter to Magistrate Shields, to whom the case was reassigned, requesting another extension of time of unspecified duration to oppose the S&H law firm’s motion to dismiss and/or move to file a second amended complaint. By letter dated April 6, 2015, we filed, via ECF, a letter opposing such request. Having received no immediate response to their request, plaintiffs allowed the April 6, 2015 deadline to oppose our motion to lapse.

On May 14 and 15, 2015, the defendants requested that the court allow the filing of the motions to dismiss as unopposed. On June 2, 2015, plaintiffs emailed defendants a copy of a letter

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to Magistrate Shields seemingly requesting until July 30, 2015 to oppose the motions or move to amend the complaint. However, that letter does not appear on the Court's docket in this matter. Plaintiff have taken no further action with respect to this matter, have failed to comply with prior court-ordered final deadlines, and have otherwise failed to prosecute this matter since the filing of our motions to dismiss in December 2014. Accordingly, we respectfully request that the Court allow the filing of our motion to dismiss as unopposed or alternatively, order that plaintiffs show cause why the instant action should not be dismissed pursuant to FFRPC 41(b). We thank the court for its consideration.

Respectfully submitted,  
  
Hillary J. Raimondi (HR 0198)

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